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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 ) Gen. Docket No. 90-314  
 ) ET Docket No. 92-100  
Amendment of the Commission's )  
Rules to Establish New Personal )  
Communications Services. ) RM-7140, RM-7175, RM-7617,  
 ) RM-7618, RM-7760, RM-7782  
 ) RM-7860, RM-7977, RM-7978  
 ) RM-7979, RM-7980  
 )  
 ) PP-35 through PP-40, PP-79  
 ) through PP-85

COMMENTS OF THE ANCHORAGE TELEPHONE UTILITY

The Anchorage Telephone Utility ("ATU") respectfully submits these Comments in response to the Notice of Proposed Rule Making and Tentative Decision ("Notice") released on August 14, 1992, in the above-captioned proceeding. The Federal Communications Commission ("the Commission") seeks comment on how it should structure the regulatory treatment of Personal Communication Services ("PCS"). One of the regulatory areas on which the Commission has specifically requested comment is the area of eligibility requirements for PCS providers. As a wireline local exchange company and cellular service provider, ATU is vitally interested in this issue.

A. Local Exchange Carriers Should Be Eligible for PCS Licenses Within Their Respective Service Areas.

The Commission has tentatively concluded that there is a strong case for allowing local exchange carriers ("LECs") to

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1 provide PCS within their respective service areas. Notice,  
2 ¶ 75. For several reasons, ATU fully supports this conclusion.

3 The Commission has stated that its goal is to bring  
4 PCS to the public expeditiously and with the least amount of  
5 regulatory delay. Notice, ¶ 1. The ability of PCS to  
6 interconnect with the public switched network will directly  
7 affect the growth and development of PCS. LECs that provide PCS  
8 will have both the capability and the incentive to develop the  
9 most efficient methods for interconnecting PCS with the switched  
10 network.

11 As the Commission has recognized, significant  
12 potential economies of scope between PCS and the LEC wireline  
13 network could be lost if LECs are prohibited from providing PCS  
14 within their current wireline service areas. Notice, ¶ 73. The  
15 loss of such economies of scope could be quite detrimental to  
16 the growth and development of PCS. The consolidation of the  
17 cellular industry has demonstrated that economies of scope are  
18 necessary for the efficient provision of cellular services. The  
19 many parallels between cellular and PCS would indicate that  
20 economies of scope will be necessary for PCS as well. Allowing  
21 LECs to participate in the PCS industry from the outset would  
22 help realize these economics of scope and help expedite the  
23 delivery of the widest possible range of services at the lowest  
24 cost to consumers. And, as the commission has noted, the  
25 advantages to be gained by rapid development of PCS extend  
26 beyond merely providing an alternative means of communication to

1 the public. "The many applications of PCS could increase the  
2 productivity and efficiency across a broad array of industries  
3 and have a positive impact on the international competitiveness  
4 of the Nation's economy." Notice, ¶ 4.

5 In addition, there currently exists a strong  
6 international interest in PCS. It is, therefore, important that  
7 U.S. providers of PCS not be unnecessarily handicapped in the  
8 development of PCS, as any regulatory provisions that delays the  
9 advancement of PCS in the U.S. "could threaten the U.S.  
10 leadership role in communication technology." Notice, ¶ 139.

11 Allowing LECs to provide PCS is also important because  
12 PCS could allow LECs to expand the reach of basic telephone  
13 services that traditionally has been limited to the wireline  
14 network. This is particularly true for rural and isolated  
15 areas.

16 Further, the risk of anticompetitive behavior in  
17 allowing LECs to provide PCS is minimal. PCS, like cellular  
18 services, will complement wireline exchange service. Thus, it  
19 is unrealistic to expect LECs to delay the development of PCS so  
20 as to avoid competition with wireline exchange services.

21 As noted by the Commission, it is possible that PCS  
22 may potentially become a competitor to local wireline exchange  
23 service. However, if this occurs at all, it will be years in  
24 the future. Moreover, it is by no means certain that, should  
25 PCS become so popular as to rival wireline exchange services,  
26

1 LECs providing PCS would have the ability or the incentive to  
2 frustrate PSC's further development.

3 The only other anticompetitive concern that has been  
4 raised with regard to LECs providing PCS is that LECs may have  
5 an incentive to discriminate against PCS competitors requesting  
6 interconnection and to cross-subsidize provision of PCS. These  
7 are the same two concerns that are raised whenever LECs are  
8 permitted to compete with other providers of telecommunications  
9 services. The Commission has long recognized the benefit of  
10 allowing LECs to compete with other service providers, and,  
11 where necessary, has adopted safeguards against discrimination  
12 and cross-subsidization, rather than barring LEC participation  
13 outright. There is no reason to believe that such safeguards  
14 could not be fashioned if necessary and would not be effective.

15 B. Cellular Licensees, Including LECs, Should Be  
16 Eligible for PCS Licenses Within Their  
17 Respective Service Areas.

18 The Commission has also requested comment on whether  
19 current cellular licensees should be permitted to provide PCS  
20 within their respective service areas. Incumbent cellular  
21 licensees, including LECs providing cellular services, have  
22 knowledge and experience that will aid in the development of  
23 PCS.<sup>1</sup> As noted by the Commission, economies of scope between  
24 cellular and PCS may allow cellular licensees to provide PCS at

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25 <sup>1</sup> The Commission has requested comment on whether LECs or  
26 cellular licensees should be permitted to provide PCS. If both  
27 are permitted to provide PCS, there has been no suggestion that  
28 any special prohibition would nonetheless apply to LEC/cellular  
licensees.

1 a lower unit cost. Notice, ¶ 66. Prohibiting cellular  
2 licensees from providing PCS would essentially penalize those  
3 cellular companies that have been successful in providing  
4 communication services; the Commission would be excluding those  
5 that may be best able to implement PCS quickly and efficiently.  
6 This clearly contravenes the Commission's goal to bring PCS to  
7 the public expeditiously and with the least amount of regulatory  
8 delay.

9 ATU recognizes that some have argued that allowing  
10 cellular licensees to provide PCS in their service areas could  
11 result in anticompetitive behavior, specifically, by limiting  
12 entry of PCS providers by acquiring licenses from potential  
13 competitors. Notice, ¶ 64. However, the Commission plans to  
14 grant at least three PCS licenses for each PCS service area.  
15 Thus, no cellular licensee could be expected to garner  
16 sufficient market power to affect the development of PCS. The  
17 other PCS licensees in the market would still actively compete  
18 and implement PCS, leaving the cellular/PCS licensee only with  
19 the option of utilizing its experience and production  
20 efficiencies to provide a competitive PCS service. It is simply  
21 unrealistic to expect a cellular licensee to stand idly by and  
22 lose business to a competing PCS licensee.<sup>2</sup>

23 Concerns regarding anticompetitive behavior might  
24 conceivably be warranted if a cellular licensee were to acquire

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25 <sup>2</sup> See Cellular Communications Systems, 89 FCC 2d 58, 68  
26 (1982).


1 all of the PCS licenses in its service area. However,  
2 regulatory action broadly prohibiting cellular licensees from  
3 providing PCS in their service areas far exceeds the more  
4 focused regulation that would be necessary to prevent such an  
5 acquisition of PCS licenses and the corresponding market power.  
6 The Notice identifies several options for preventing undue  
7 market concentration, such as reviewing license merger questions  
8 on a case-by-case basis. Notice, ¶ 81. These regulatory  
9 options are far more appropriate, as they are narrowly tailored  
10 to the specific regulatory concern of undue market  
11 concentration.

12 C. Conclusion

13 Excluding LECs and cellular licensees from providing  
14 PCS in their respective service areas does not serve the  
15 Commission's goal of providing PCS to the public expeditiously.  
16 LECs and cellular licensees have the experience, knowledge, and  
17 infrastructure to develop PCS quickly and efficiently. Concerns  
18 regarding any anticompetitive behavior of LECs or cellular  
19 licensees in the provision of PCS can be fully remedied through  
20 far less drastic measures than excluding such able providers  
21 from the PCS arena.

22 Respectfully submitted this 9th day of November, 1992.

23 ANCHORAGE TELEPHONE UTILITY

24   
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